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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/385,834	08/30/99	WRIGHT	J 76891

HM22/0213  
WELSH & KATZ LTD  
120 SOUTH RIVERSIDE PLAZA 22ND FLOOR  
CHICAGO IL 60606

EXAMINER

QAZI, S

ART UNIT	PAPER NUMBER
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1616

DATE MAILED:

02/13/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/385,834

Applicant(s)

Jeffery L.C. Wright

Examiner

Sabiha Qazi

Group Art Unit

1616



☒ Responsive to communication(s) filed on Nov 14, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1, 5-11, 30, and 31 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1, 5-11, 30, and 31 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1616

**Final Office Action on Merits**

**Status of the application**

Claims 1, 5-11, 30 and 31 are pending.

Claims 1, 5-11, 30 and 31 are rejected.

New claims 30 and 31 are added.

Claims 2-4 and 12-29 are canceled.

No claim is allowed.

Applicant's response filed in paper no. 8 is hereby acknowledged. Amendments are entered. Claims are amended therefore, all the rejections are moot.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 5-11 and 30 and 31 rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most

Art Unit: 1616

nearly connected, to make and/or use the invention. Following reasons apply.

There are no examples in the specification showing any data for lowering cholesterol or triglycerides as has been instantly claimed. Only one example for the synthesis of the ester was found in the specification. One skilled in the art would have to do undue experimentation to practice the instant invention. There is no support for what has been claimed.

Note, that applicants are not claiming the synthesis of the compounds. Instantly claimed invention is drawn to nutrition supplement comprising a sterol ester of an omega fatty acid for lowering cholesterol and triglycerides levels in the blood stream of a subject. No examples or data is provided.

#### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of

Art Unit: 1616

the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Telephone Inquiry Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sabiha N. Qazi, whose telephone number is (703) 305-3910. The examiner can normally be reached on Monday through Friday from 8 a.m. to 6 p.m. The fax phone number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.



**Sabiha N. Qazi, Ph.D.**

**Primary Examiner**

**Art Unit 1616**

02/11/001